

AMENDED IN SENATE MAY 24, 2013

AMENDED IN SENATE APRIL 30, 2013

AMENDED IN SENATE APRIL 4, 2013

SENATE BILL

No. 256

Introduced by Senator Lieu

February 13, 2013

An act to add Part 8.2 (commencing with Section 7940) to Division 5 of the Labor Code, relating to trampoline courts.

LEGISLATIVE COUNSEL'S DIGEST

SB 256, as amended, Lieu. Trampoline courts: safety inspection.

Existing law establishes the Permanent Amusement Ride Safety Inspection Program and requires the Division of Occupational Safety and Health within the Department of Industrial Relations to propose rules and regulations for adoption by the Occupational Safety and Health Standards Board relating to permanent amusement ride safety for the protection of the general public. The program exempts certain amusements from its provisions, including trampolines and stationary spring-mounted fixtures.

This bill would establish a state program to inspect trampoline courts, as defined, for the protection of the general public using trampoline courts. The bill would require each owner of a trampoline court to annually submit to the division a certificate of compliance, and to report specified accidents. The bill would make operation of a trampoline court contingent on being insured ~~or bonded~~ in an amount not less than \$1,000,000, ~~or self-insured~~ *self-insured*, ~~as prescribed, in accordance with prescribed by~~ rules and regulations promulgated by the division. The bill would require the division to formulate and propose rules and

regulations for adoption by the board regarding trampoline courts, and to adopt rules and regulations necessary to administer the program. The bill would authorize the division to employ qualified safety inspectors, as defined, for purposes of the program and would require the division to certify inspectors as prescribed. The bill would authorize the division to fix and collect fees to cover the reasonable costs of administering the program, and provide for the imposition of civil penalties for violations of the program or rules and regulations adopted to implement the program. The bill would establish the Trampoline Courts Safety Fund and require fees and penalties collected pursuant to these provisions to be deposited in the fund, ~~as specified, and~~ *specified. The bill would require that all moneys in the fund be made available upon appropriation by the Legislature.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 8.2 (commencing with Section 7940) is
2 added to Division 5 of the Labor Code, to read:

3
4 PART 8.2. TRAMPOLINE COURTS
5

6 7940. It is the intent of the Legislature in enacting this part to
7 create a state program for the inspection of trampoline courts.

8 7941. As used in this part:

9 (a) "Trampoline court" means a defined area comprised of one
10 or more institutional trampolines, a series of institutional
11 trampolines, a trampoline court foam pit, or a series of trampoline
12 court foam pits. The division shall determine the specific devices
13 that are trampoline courts for the purposes of this part. This
14 determination shall be made to apply equally to all operators of
15 similar or identical facilities and shall be made pursuant to a
16 procedure promulgated by the standards board.

17 (b) "Institutional trampoline" means a trampoline intended for
18 use in a commercial or institutional facility.

19 (c) "Trampoline court foam pit" means a combination style
20 dismount pit designed with a rebound device, covered with loose
21 impact absorbing blocks.

1 (d) “Operator” or “owner” means a person who owns or controls
2 or has the duty to control the operation of a trampoline court. It
3 includes the state and every state agency, and each county, city,
4 district, and all public and quasi-public corporations and public
5 agencies therein.

6 (e) “Fund” means the Trampoline Courts Safety Fund
7 established by Section 7949.

8 (f) “Qualified safety inspector” means either of the following:

9 (1) A person who holds a valid professional engineer license
10 issued by this state or issued by an equivalent licensing body in
11 another state, and who has been approved by the division as a
12 qualified safety inspector for permanent amusement rides.

13 (2) A person who documents to the satisfaction of the division
14 that he or she meets all of the following requirements:

15 (A) The person has a minimum of five years’ experience in the
16 amusement ride field, at least two years of which were involved
17 in actual amusement ride inspection with a manufacturer,
18 government agency, amusement park, carnival, or insurance
19 underwriter.

20 (B) The person completes not less than 15 hours per year of
21 continuing education at a school approved by the division, which
22 education shall include inservice industry or manufacturer updates
23 and seminars.

24 (C) The person has completed at least 80 hours of formal
25 education during the past five years from a school approved by
26 the division for amusement ride safety. Nondestructive-testing
27 training, as determined by the division, may be substituted for up
28 to one-half of the 80 hours of education.

29 7942. This part does not apply to any of the following:

30 (a) Any playground operated by a school or local government,
31 if the playground is an incidental amenity and the operating entity
32 is not primarily engaged in providing amusement, pleasure, thrills,
33 or excitement.

34 (b) Museums or other institutions principally devoted to the
35 exhibition of products of agriculture, industry, education, science,
36 religion, or the arts.

37 (c) Skating rinks, arcades, laser or paint ball war games, indoor
38 interactive arcade games, bowling alleys, miniature golf courses,
39 mechanical bulls, inflatable rides, ball crawls, exercise equipment,
40 jet skis, paddle boats, air boats, helicopters, airplanes, parasails,

1 hot air balloons, whether tethered or untethered, theaters,
2 amphitheaters, batting cages, stationary spring-mounted fixtures,
3 rider-propelled merry-go-rounds, games, slide shows, live animal
4 rides, or live animal shows. As used in this section, “stationary
5 spring-mounted fixtures” does not include trampolines.

6 (d) Gymnastics clubs or facilities where all of the following are
7 applicable:

8 (1) The majority of the activities are gymnastics based.

9 (2) The gymnastics club or facility derives the majority of its
10 revenues through supervised educational instruction classes or
11 programs where the student-to-coach/instructor ratio is based on
12 age, skill level, and number of students.

13 (3) The gymnastics club or facility teaches gymnastics skills
14 and basics through programs that use progression-oriented training
15 and has supervised training and classes.

16 (e) Trampoline courts operated at a private event that are not
17 open to the general public and not subject to a separate admission
18 charge.

19 7943. (a) The division shall formulate and propose rules and
20 regulations for adoption by the Occupational Safety and Health
21 Standards Board for the safe installation, repair, maintenance, use,
22 operation, and inspection of all trampoline courts as the division
23 finds necessary for the protection of the general public using
24 trampoline courts. The rules and regulations shall be in addition
25 to the existing applicable safety orders and shall be concerned with
26 engineering force stresses, safety devices, and preventive
27 maintenance. Nothing in this part shall limit the authority of the
28 division to prescribe or enforce general or special safety orders.

29 (b) It is the Legislature’s intent that the rules and regulations
30 adopted pursuant to this part be consistent with those adopted by
31 the Occupational Safety and Health Standards Board for traveling
32 amusement rides, to the extent that those rules and regulations are
33 found to be appropriate.

34 7944. (a) On an annual basis, each owner of a trampoline court
35 shall submit to the division a certificate of compliance on a form
36 prescribed by the division, which shall include the following:

37 (1) The legal name and address of the owner and his or her
38 representative, if any, and the primary place of business of the
39 owner.

1 (2) A description of, the name of the manufacturer of, and, if
2 given by the manufacturer, the serial number and model number
3 of, the trampoline court.

4 (3) A written declaration, executed by a qualified safety
5 inspector, stating that, within the preceding 12-month period, the
6 trampoline court was inspected by the qualified safety inspector
7 and that the trampoline court is in material conformance with the
8 requirements of this section and all applicable rules and regulations
9 adopted by the division and standards board.

10 (b) The owner of multiple trampoline courts at a single site may
11 submit a single certificate of compliance that provides the
12 information required by subdivision (a) for each trampoline court
13 at that site.

14 (c) A certificate of compliance shall not be required until one
15 year following the promulgation of any rules or regulations by the
16 division governing the submission of the certificates.

17 (d) A person shall not operate a trampoline court that has been
18 inspected by a qualified safety inspector or division inspector and
19 found to be unsafe, unless all necessary repairs or modifications,
20 or both, to the devices at the facility have been completed and
21 certified as completed by a qualified safety inspector.

22 (e) For the purposes of satisfying this section, a qualified safety
23 inspector shall meet the requirements in subdivision (e) of Section
24 7941 and shall be certified by the division. Each qualified safety
25 inspector shall be recertified every two years following his or her
26 initial certification. A qualified safety inspector may be an
27 in-house, full-time safety inspector of the owner of the trampoline
28 court, an employee or agent of the insurance underwriter or
29 insurance broker of the trampoline court, an employee or agent of
30 the manufacturer of the trampoline court devices, or an independent
31 consultant or contractor.

32 (f) The owner of a trampoline court shall maintain all of the
33 records necessary to demonstrate that the requirements of this
34 section have been met, including, but not limited to, employee
35 training records, maintenance, repair, and inspection records for
36 each trampoline court, and records of accidents of which the
37 operator has knowledge, resulting from the failure, malfunction,
38 or operation of a device at the trampoline court, requiring medical
39 service other than ordinary first aid, and shall make them available
40 to a division inspector upon request. The owner shall make those

1 records available for inspection by the division during normal
2 business hours at the owner's permanent place of business. The
3 owner, or representative of the owner, may be present when the
4 division inspects the records. In conjunction with an inspection of
5 records conducted pursuant to this subdivision, the division shall
6 conduct an inspection of the operation of the devices at the
7 trampoline court.

8 (g) Upon receipt of a certificate of compliance, the division
9 shall notify the owner of the trampoline court or courts for which
10 a certificate is submitted whether the certificate meets all the
11 requirements of this section, and if not, what requirements must
12 still be met.

13 (h) The division, in addition to the annual inspection performed
14 by the division pursuant to subdivision (f), shall inspect the records
15 for a trampoline court or the devices at the trampoline court, or
16 both, under either of the following circumstances:

17 (1) The division finds that the certificate of compliance
18 submitted pursuant to this section for the trampoline court is
19 fraudulent.

20 (2) The division determines, pursuant to regulations it has
21 adopted, that a trampoline court has a disproportionately high
22 incidence of accidents required to be reported pursuant to Section
23 7945.

24 (i) The division shall conduct its inspections with the least
25 disruption to the normal operation of the trampoline court.

26 7945. (a) Each operator of a trampoline court shall report or
27 cause to be reported to the division immediately by telephone each
28 known accident where maintenance, operation, or use of the
29 trampoline court results in a death or serious injury to any person
30 unless the injury does not require medical service other than
31 ordinary first aid. If a death or serious injury results from the
32 failure, malfunction, or operation of a trampoline court, the
33 equipment or conditions that caused the accident shall be preserved
34 for the purpose of an investigation by the division.

35 (b) A division inspector may inspect any trampoline court after
36 the report of an accident to the division. The division may order
37 a cessation of operation of a device if it is determined after
38 inspection to be hazardous or unsafe. Operation shall not resume
39 until these conditions are corrected to the satisfaction of the
40 division.

1 (c) Whenever a state, county, or local fire or police agency is
2 called to an accident involving a trampoline court covered by this
3 part where a serious injury or death occurs, the responding agency
4 shall immediately notify the nearest office of the division.

5 7946. (a) A person shall not operate a trampoline court unless,
6 at the time of operation, one of the following is in existence:

7 (1) The owner of the trampoline court provides an insurance
8 policy in an amount not less than one million dollars (\$1,000,000)
9 per occurrence insuring the owner or operator against liability for
10 injury or death to persons arising out of the use of the trampoline
11 court.

12 ~~(2) The owner of the trampoline court provides a bond in an~~
13 ~~amount not less than one million dollars (\$1,000,000), except that~~
14 ~~the aggregate liability of the surety under that bond shall not exceed~~
15 ~~the face amount of the bond.~~

16 ~~(3)~~

17 (2) The owner of the trampoline court meets a financial test of
18 self-insurance, as prescribed by rules and regulations promulgated
19 by the division, to demonstrate financial responsibility covering
20 liability for injury suffered by patrons using the trampoline court.

21 (b) The insurance policy ~~or bond~~ shall be obtained from one or
22 more *admitted* insurers ~~or sureties~~ licensed by the Department of
23 Insurance ~~to do business write liability insurance~~ in this state, *as*
24 *defined in Section 100 of the Insurance Code*, or by a ~~nonadmitted~~
25 ~~insurer employed by a surplus lines broker licensed by the~~
26 ~~Department of Insurance.~~ *an eligible surplus line insurer, with the*
27 *insurance procured pursuant to Section 1765.1 of the Insurance*
28 *Code.*

29 7947. Each owner of a trampoline court shall provide training
30 for its employees in the safe operation and maintenance of
31 amusement rides, as required by the standards adopted by the
32 American Society for Testing and Materials, as amended or as
33 may be amended from time to time, to the extent that those
34 standards are consistent with the standards adopted by the division
35 pursuant to this part, and the injury prevention program required
36 under Section 6401.7.

37 7948. The division shall adopt rules and regulations necessary
38 for the administration of this part. The division may employ
39 qualified safety inspectors as it determines to be necessary for the
40 purposes of this part.

1 7949. (a) The division may fix and collect all fees necessary
2 to cover the reasonable costs of administering this part. Fees shall
3 be charged to a person or entity receiving the division's services
4 as provided by this part or by regulations adopted pursuant to this
5 part, including, but not limited to, approvals, determinations,
6 certifications and recertifications, receipt and review of certificates,
7 and inspections. In fixing the amount of these fees, the division
8 may include a reasonable percentage attributable to the general
9 cost of the division for administering this part. Notwithstanding
10 Section 6103 of the Government Code, the division may collect
11 these fees from the state or any county, city, district, or other
12 political subdivision.

13 (b) (1) The Trampoline Courts Safety Fund is hereby established
14 within the State Treasury. All money in the fund shall be available
15 for the administration of this part, upon appropriation by the
16 Legislature.

17 (2) All fees collected pursuant to this part shall be deposited
18 into the Trampoline Courts Safety Fees Account, which is hereby
19 established within the fund.

20 (3) All penalties collected pursuant to this part shall be deposited
21 into the Trampoline Courts Safety Penalties Account, which is
22 hereby established within the fund.

23 7949.5. (a) If the division determines that any owner or
24 operator of a trampoline court subject to this part has willfully or
25 intentionally violated this part or any rule or regulation
26 promulgated under this part, and that violation results in a death
27 or serious injury as specified in Section 7945, the division shall
28 impose on that owner or operator a civil penalty of not less than
29 twenty-five thousand dollars (\$25,000) and not more than seventy
30 thousand dollars (\$70,000).

31 (b) The division shall enforce this part by the issuance of a
32 citation and notice of civil penalty in a manner consistent with
33 Section 6317. Any owner or operator who receives a citation and
34 penalty may appeal the citation and penalty to the Occupational
35 Safety and Health Appeals Board in a manner consistent with
36 Section 6319.